

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:07-CR-003
)	(Varlan / Guyton)
ERIC DEWAYNE BOYD,)	
)	
Defendant.)	
)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. The parties appeared before the undersigned on September 18, 2007, for a hearing on the government's Motion to Continue [Doc. 98], filed on September 17, 2007. Attorney Richard Gaines was present for the defendant, who was also present. Assistant United States Attorneys David Jennings and Tracy Stone appeared on behalf of the government.

At the hearing, Attorney Gaines made an oral motion on behalf of his client, Defendant Boyd, to withdraw as counsel. Counsel for Defendant Boyd cited defendant's reason for the motion as irreconcilable differences, and further, that the relationship of trust and open communication necessary for an effective defense no longer existed in the attorney-client relationship. Defendant Boyd then testified that he no longer wants to be represented by Attorney Gaines, and that he agreed that the attorney-client relationship necessary for an effective defense did not exist and was irreparable. Defendant Boyd also testified he understood appointing new counsel to represent him would take time and thus, his trial would be postponed and he would remain

incarcerated pending trial. At the hearing, the government stated that it had no position on the said motion.

The Court finds that good cause exists to grant defendant Boyd's request and his oral motion is **GRANTED**, and Mr. Gaines shall be relieved as counsel for the defendant. See Wilson v. Mintzes, 761 F.2d 275, 280 (6th Cir. 1985) (holding that a defendant seeking to substitute counsel must show good cause).

New counsel for the defendant must be identified and substituted before Mr. Gaines can be completely excused from this case. Mr. Gaines is **ORDERED** to seal Defendant Boyd's files while the appointment of new counsel is pending.

The Court will conduct a status conference in this case on **October 19, 2007 at 1:30 p.m.**

Furthermore, the government's Motion to Continue [Doc. 98] is **DENIED AS MOOT.**

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge